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CHAPTER THREE
ADOPTIONS**

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TITLE 13A
CHAPTER THREE
ADOPTIONS

SECTION 1. CITATION

This Title may be cited as the “Seminole Nation of Oklahoma Adoption Act.”

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 100 **DEFINITIONS**

Unless the context otherwise requires, as used in this Title, the term:

- (a) “Adult” means a person eighteen years of age or over.
- (b) “Attorney General” means the Attorney General of the Seminole Nation.
- (c) “Brother” means:
 - (1) Any male sibling, or
 - (2) Any other male person, who, by virtue of an adoption either of themselves or of a member of their family pursuant to the laws of any Indian Tribe or state, would hold the relationship of a sibling with the person in question.
- (d) “Child” means a person less than eighteen years of age.
- (e) “Custody” means guardianship of the person.
- (f) “Department” means the Seminole Social Services Department.
- (g) “District Court” or “Court” means the Seminole Nation District Court.
- (h) “Grandparent” means
 - (1) A biological grandparent.
 - (2) The brothers and sisters of a biological grandparent, and their spouses.
 - (3) Any other person, who, by virtue of an adoption either of themselves or a member of their family pursuant to the laws of any Indian Tribe or state, would come within the terms of subparagraphs (1) or (2) of subsection.

- (i) “Juvenile Court” or “Court” means the Juvenile Division of the Seminole Nation District Court, or the Juvenile Court or C.F.R. Court established for other Indian Tribes, or a state Juvenile Court as is appropriate from the context.
- (j) “Parent” means either a natural parent or a parent by adoption. Parent does not include an unwed father unless he has acknowledged paternity of the child orally to two or more disinterested parties or in writing under oath unless paternity has been established by judicial action.
- (k) “Stepparent” means a person married to a biological parent, but who is not a biological parent of the child.
- (l) “Sister” means
 - (1) Any female sibling.
 - (2) Any other female person, who, by virtue of an adoption either of themselves or of a member of their family pursuant to this Title or the laws of any Indian Tribe or state, would have the relationship of a sibling with the person in question.
- (m) “Sister-in-law” means the wife of a brother by blood or marriage.
- (n) “Termination of parental rights” or “termination of the parent-child legal relationship” means the permanent elimination by Court order of all parental rights and duties, including residual parental rights and duties, but not including the child’s right to inherit from the parent’s whose rights have been terminated.
- (o) “Traditional custodian” means those relatives of the child other than the parent, who, by force of the traditions, customs, and common law of the Tribe have the rights, duties, and responsibilities of assisting the parents in rearing the child and providing for its support.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 101. JURISDICTION OVER ADOPTIONS

- (a) The Juvenile Division of the District Court shall have exclusive jurisdiction regarding the adoption of any person who resides or is domiciled within the jurisdiction of the court, is unmarried, less than eighteen years of age, and either:
 - (1) A member of an Indian Tribe, or
 - (2) Is eligible for membership in an Indian Tribe, and is the biological child of a member of an Indian Tribe, or

- (3) Whose case has been transferred to the Juvenile Division of the District from the courts of a state, or Tribe which has assumed jurisdiction over said child, or
- (4) The adoption of any adult Indian who resides or is domiciled within the jurisdiction of the Court.
- (5) The Juvenile Division of the District Court shall have concurrent jurisdiction with the court of any other sovereign having lawful authority regarding the adoption by or of any other child or adult who is:
- (6) A bona fide resident of or domiciled within the jurisdiction of the Court, or
- (7) Between two adults who submit to the jurisdiction of the Court regardless of residence or domicile, or
- (8) A member of the Tribe.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 102. PURPOSE OF ADOPTIONS

The purpose of an adoption is to establish a formal and legal family relationship between two or more persons which after adoption, shall exist as if the parties were born into the adoptive relationship by blood. Adoptions pursuant to this Title shall be so recognized by every agency and level of the Government except in eligibility for enrollment determinations which shall continue to be based upon biological parentage.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 103. TYPES OF ADOPTIONS

There shall be three types of adoptions recognized by this Tribe, namely:

- (a) Statutory adoptions under Tribal law entered into pursuant to Subchapter A of this Chapter.
- (b) Statutory adoptions under the laws of some other Tribe, State, or Nation having jurisdiction over the parties and the subject matter.
- (c) Traditional adoptions which may be for the purpose of establishing any traditionally allowed family relationship between any persons, and which shall be governed by the Tribal Common Law until such time as the proper procedures for such adoptions are written down as a part of the Tribal Code at which time traditional adoptions shall be governed by such procedure. Unless otherwise specifically provided

by Tribal Statute, traditional adoptions create a particular stated family relationship between persons for all purposes other than enrollment and the probate of decedents estates.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 104. IN CAMERA DETERMINATION OF ENROLLMENT ELIGIBILITY

Whenever a parent, whether biological or adoptive, has expressed a desire that the name of the parent or the original or adoptive name of the child and the child's relationship to themselves or others remain confidential, and a question arises as to the eligibility of the child for enrollment as a citizen and member of the Tribe, the Court is authorized to receive from any source such information as may be necessary for a determination of the eligibility of such child for enrollment, to review such information in camera, and to enter its order declaring whether or not the child is eligible for enrollment and the child's blood quantum or other necessary non-identifying enrollment eligibility criteria. In doing so, the Court shall be provided with a complete Tribal roll for the necessary period(s), and shall seal all records received to maintain their confidentiality of the parties. If the Court determines that such child is eligible for enrollment, it shall enter its order declaring said fact and the Tribal enrollment officers shall accept such order as conclusive proof of the eligibility of the child for enrollment and enroll the child accordingly. If the Court determines that such child is not eligible for enrollment, it shall enter its order accordingly, and the Tribal enrollment officers shall accept such order as proof of the ineligibility of said child and refuse to enroll the child unless other or further qualifications for enrollment are shown.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

**SUBCHAPTER A
STATUTORY ADOPTIONS**

SECTION 110. ELIGIBILITY FOR STATUTORY ADOPTION

Every child within the jurisdiction of the Juvenile Division of the District Court at the time a petition for adoption is filed may be adopted subject to the terms and conditions of this Subchapter.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 111. ELIGIBILITY TO ADOPT BY STATUTORY PROCESS

The following persons are eligible to adopt a child pursuant to this Subchapter, and subject to the placement preferences of Section 101 of Title 13A:

- (a) A husband and wife jointly;
- (b) Either the husband or wife if the other spouse is a parent of the child;

- (c) An unmarried person who is at least twenty-one (21) years old;
- (d) A married person who is legally separated from the other spouse and is at least twenty-one (21) years old.
- (e) In the case of a child born out-of-wedlock, its unmarried father or mother.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 112. CONSENT TO STATUTORY ADOPTION

- (a) Adoption of a child may be decreed only if consent to such adoption has been executed and filed in the Juvenile Division of the District Court by:
 - (1) both parents, if living, or the surviving parent, unless their parental rights have been terminated by judicial decree.
 - (2) a parent less than sixteen (16) years of age may give their consent only with the written consent of one of that minor parent's parents, legal guardian, or a guardian ad litem of the minor parent appointed by the Court.
 - (3) if both parents be deceased, or if their parental rights have been terminated by judicial decree, then the traditional custodian having physical custody of said child for the preceding six (6) month period, or a person or the executive head of an agency having custody of the child by judicial decree with the specific authority, granted by the Court, to consent to the adoption of the child.
- (b) Where any parent or Indian custodian voluntarily consents to an adoption, or termination of parental rights, such consent shall not be valid unless executed before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall certify that the parent or Indian custodian either fully understood the explanation in English, or that it was interpreted into a language that the parent or Indian custodian understood.
- (c) Any consent given prior to or within ten days after the birth of a child shall not be valid.
- (d) Any consent given for the adoption of, or termination of parental rights to a child may be withdrawn at any time prior to the entry of a final decree of adoption or termination as the case may be and the child shall be returned to the parent.

SECTION 113. VOLUNTARY RELINQUISHMENT

Any parent, legal custodian, traditional custodian, or other guardian of a child may relinquish, subject to the terms of Section 112 (b), (c), and (d) of this Subchapter, any rights they may have to the care, custody, and control of a child. A relinquishment shall be made by filing a

petition in the Juvenile Division of the court with notice to Social Services, Indian Child Welfare, Attorney General, traditional custodians, and the Parent(s) not a petitioner. The traditional custodians may intervene in said action. The petition may relinquish generally in which case the Court shall assume jurisdiction over the child, or specially to a particular person for adoption. A relinquishment shall be valid only upon approval and decree of the Court.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 114. WHEN CONSENT OF PARENTS UNNECESSARY

Adoption of a child may be decreed without the consent required by Section 112 of this Subchapter only if the parents, or the traditional custodians having custody if the parents be deceased, have:

- (a) had their parental or custodial rights terminated by a decree of a Court of competent jurisdiction, or
- (b) been adjudicated incompetent by reason of mental disease, defect, or injury, or by abuse of alcohol or drugs, and it appears by a preponderance of the evidence that such person will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority, or
- (c) for a period of twelve months immediately preceding the filing of the petition for adoption, willfully failed, refused, or neglected to provide and contribute to the support of their child either:
 - (1) in substantial compliance with any decree of a Court of competent jurisdiction ordering certain support to be contributed, or
 - (2) if no court order has been made ordering certain support, then within their available means through contribution of financial support, physical necessities such as food, clothing, and shelter contributions, or by performing labor or other services for and at the request of the person or agency having custody.
- (d) been finally adjudicated guilty of a felony and sentenced to death or to a term of imprisonment which is likely to prevent release of the parent for a period such that the parent will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority.

In such cases, it shall not be necessary to obtain the consent of such parent, or to terminate the parental rights of such parent prior to adoption of the child.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 115. NOTICE AND HEARING FOR ADOPTIONS WITHOUT CONSENT

Before the Court hears a petition for adoption without the consent of the parents as provided by Section 114 of this Subchapter, except proceedings pursuant to Section 114(a), the person having authority to consent to the adoption, or the person petitioning for the adoption shall file an application for adoption without consent setting out the reason the consent of the other person is not necessary. The application shall be set for hearing at a date and time certain and the application shall contain the name of the child to be adopted, the time, date, and place of the hearing, the reason that the child is eligible for adoption without the consent of the parent, guardian, or custodian, and a notice that the adoption may be ordered if the parent, guardian, or custodian does not appear at the hearing and show cause why their consent is necessary. The application and notice shall be served on the parent, guardian, or custodian whose consent is alleged to be unnecessary in the same manner that civil summons is served. The hearing on the application shall be at least twenty-four hours prior to the hearing on the adoption.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 116. CONSENT OF CHILD

Whenever a child be of sufficient maturity and understanding the Court may, and in every case of a child over ten years of age the Court shall, require the consent of the child, expressed in such form as the Court shall direct, prior to the entry of a decree of adoption. Whenever possible, the Court should interview such child in private concerning the adoption prior to approving the child's consent.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 117. PETITION

A Petition for adoption shall be filed in duplicate, verified by the petitioners, and shall specifically state:

- (a) The full names, ages, and places of residence of the Petitioners, and, if married, the place and date of their marriage.
- (b) Their relationship with the child, if any, and their tribal affiliation by blood and membership, if any.
- (c) When and from whom the petitioners acquired or intend to acquire physical custody of the child.
- (d) The names of the child's biological parents and their tribal affiliation by blood and membership, including tribal roll numbers, if known.

- (e) The date and place of birth of the child including the jurisdiction issuing the birth certificate for said child, the child's sex, race, and tribal affiliation by blood and membership, including tribal roll number, if known.
- (f) The name used for the child in the proceeding, and, if a change in name is desired, the new name.
- (g) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.
- (h) A full description and statement of the value of all property owned or possessed by the child.
- (i) The facts, if any, which excuse the consent of the parents or either of them to the adoption.
- (j) Any required consents to the adoption may be attached to the petition, or filed with the Court prior to entry of a decree of adoption.
- (k) The facts which bring the child within the jurisdiction of the Court.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 118. INVESTIGATION

- (a) Upon the filing of a petition for adoption, the Court shall order an investigation to be made:
 - (1) by the agency having custody or legal guardianship of the child, or Department, or in other cases, by the State, Bureau of Indian Affairs, Indian Child Welfare, or Social Services Department.
 - (2) by a person qualified by training or experience, certification and designated by the Court. and shall further order that a report of such investigation shall be filed with the Court by the designated investigator within the time fixed by the Court and in no event more than sixty (60) days from the issuance of the order for investigation, unless time therefore is extended by the Court.
- (b) Such investigation shall include the conditions and antecedents of the child for the purpose of determining whether he is a proper subject for adoption; appropriate inquiry to determine whether the proposed home is a suitable one for the child, including a criminal background check and standard home study including all residents; and any other circumstances and conditions which may have bearing on the adoption and of which the Court should have knowledge; and in this entire matter of investigation, the Court is specifically authorized to exercise judicial knowledge.

(c) Home studies shall be conducted with at least two visits in the home; evaluate the desire and commitment to adopt, to explore the reasons why prospective parents want to adopt, evaluate parenting and discipline style; and shall include a Summary and social worker's recommendation, and must also include, but is not limited to:

- (1) Personal and family background-including upbringing, siblings, key events, and what was learned from them
- (2) Significant people in the lives of the applicants
- (3) Marriage and family relationships
- (4) Motivation to adopt
- (5) Expectations for the child
- (6) Feelings about infertility (if this is an issue)
- (7) Parenting and integration of the child into the family
- (8) Family environment
- (9) Physical and health history of the applicants
- (10) Education, employment and finances-including insurance coverage and child care plans if needed
- (11) References and criminal background clearances.

(d) The Court may order agencies named in Subsection (a) of this Section located in one or more counties to make separate investigations on separate parts of the inquiry, as may be appropriate.

(e) Where the adopting parent is the spouse of a parent, or in the event that a report, as outlined above deemed adequate for the purpose by the Court, has been made within the six months next preceding the filing of the petition for adoption, the Court, in its discretion, may waive the making of an investigation and the filing of a report.

(f) Upon the filing of the report, the investigator shall serve written notice upon the petitioners that the report has been filed with the Court, provided, that the report shall remain confidential and the contents of the report shall not be divulged to the petitioners except upon the consent of the investigating officer and the Court, and except to Social Services, Indian Child Welfare, and the Attorney General.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 119. ADOPTION HEARING

At any time after the written investigation report has been filed, the Court, upon motion or request of the petitioners, or upon its own motion, shall fix a time for hearing the petition for adoption. The adoptive parent or parents and adoptive child shall appear personally at the hearing. All other persons whose consent is necessary to the adoption and who have not filed their written consents shall be duly notified and may appear or be represented by a member of the Bar of the Court, or by an unpaid personal representative at their request with the approval of the Court. The Judge shall examine all persons appearing separately, and if satisfied as to the suitability of the child for adoption, the financial ability and moral and physical fitness and responsibility of the adoptive parents, and that the best interest of the child will be promoted by the adoption may enter a final decree of adoption, or may place the child in the legal custody of the petitioner for a period of not more than six months prior to entering a final decree of adoption, or if the Court is satisfied that the adoption will not be in the best interests of the child, the petition shall be denied and the child's guardian instructed to arrange suitable care for the child, and the Court may request the tribal agencies, Federal agencies, or other agencies to provide services to assist in the placement and the care of the child, or, in case of need, refer the matter to the Social Services, Indian Child Welfare, and Attorney General for the purpose of determining whether an involuntary juvenile petition should be filed.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 120. REPORT AND FINAL DECREE OF ADOPTION

If the Court does not enter a final decree of adoption at the time of the hearing for adoption, but places the child in the legal custody of the petitioners, within six months of the child's placement in the custody of the petitioner, the Court shall request a supplementary written report as to the welfare of the child, the current situation and conditions of the adoptive home and the adoptive parents. If the Court is satisfied that the interests of the child are best served by the proposed adoption, a final Decree of Adoption may be entered. No final order shall be entered by the Court unless it appears to the Court the adoption is in the best interests of the child. In any case where the Court finds that the best interest of the child will not be served by the adoption, a guardian shall be appointed and suitable arrangements for the care of the child shall be made and the Court may request tribal agencies or federal agencies or other agencies authorized to provide services to assist in the placement and the care of the child.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 121. CONTENTS OF ADOPTION ORDER

The final order of adoption shall include such facts as are necessary to establish that: the child is within the jurisdiction of the court; eligibility for adoption; the adoptive parents and home are adequate and capable for the proper care of the child, as shown by the investigation reports and the findings of the Court upon the evidence adduced at the hearings; the new name of the child, if any; and that the relationship of parent and child exists between the petitioners and the child.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 122. EFFECT OF FINAL DECREE OF STATUTORY ADOPTION

(a) After a final decree of adoption pursuant to this Subchapter is entered, the relationship of parent and child, and all the rights, duties, and other legal consequences of the natural relation of a child and parent shall thereafter exist between such adopted child, the adopting parent, and the kindred of the adopting parents. The adopted child shall inherit real and personal property from the adopting family and the adopting family shall inherit from the child in accordance with law as if such child were the natural child of the adopting parent(s).

(b) After a final decree of adoption pursuant to this Subchapter is entered, the natural parents of the adopted child, unless they are the adoptive parents or the spouse of an adoptive parent, shall be relieved and terminated from all parental rights and responsibilities for said child, including the right to inherit from the child, provided, that the child shall remain eligible to inherit from said natural parents, and retain all rights to membership in a Tribe by virtue of his birth to said natural parents.

(c) Unless the traditional custodians and grandparents of a child have given their consent to the adoption of the child, or have had their custodial rights terminated in the same manner that a parent consent or has their rights terminated, the Court, at any time within two years after the final decree of adoption or refusal of the adoptive parents to allow visitation, whichever is later, may, upon application of a natural traditional custodian or a natural grandparent, order reasonable visitation rights in favor of said person if the Court deems such visitation in the best interest of the child. The Court may enforce such visitation rights and make orders thereto at any time after timely filing of an application therefore. Notice of such application shall be served upon the adoptive parents as a summons is served.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 123. RECORDS AND HEARING CONFIDENTIAL

Unless the court shall otherwise order:

(a) All hearings held in proceedings under this Subchapter shall be confidential and shall be held in closed court without admittance of any person other than the interested parties, including traditional custodians, representatives of Social Services and/or Indian Child Welfare when deemed necessary by the Court, persons whose presence is requested by the parties in private before the Court after the exclusion of all other persons, and the counsel for the parties, traditional custodians, Social Services and/or Indian Child Welfare.

(b) All papers, records, and files pertaining to the adoption shall be kept as a permanent record of the Court and withheld from inspection. No person shall have access to such records except:

(1) Upon order of the court for good cause shown.

(2) Upon the adopted person reaching the age of eighteen, the adopted person may review the records unless the natural parents have by affidavit requested anonymity in which case their names and identifying characteristics, not including tribal membership and degree of blood, shall be deleted prior to allowing the adopted person access to the records.

(3) The traditional custodian and natural grandparents shall have access to the records unless the natural parents have, by affidavit, requested anonymity, in which case, the names and identifying characteristics shall be deleted prior to allowing them access to the records as in the preceding paragraph. If the adopting parent request anonymity, by affidavit, the traditional custodians and natural grandparents may have access to the records only by order of the Court for good cause shown, and then only if the court deems such request in the best interest of the child.

(4) For the purpose of obtaining the enrollment of the child with another Indian Tribe, the Court may upon request of an enrollment officer of that Tribe, certify to that officer pertinent facts to enable that officer to determine the eligibility of the child for membership in that Tribe subject to the written guarantee, with an undertaking if deemed necessary by the Court, that such facts will remain confidential and divulged only to those persons who must know the facts to obtain the enrollment of the child. In the alternative, and in cases where the natural or adoptive parents, have, by affidavit, requested anonymity, the Court may certify a copy of the record of the case to a Judge of the Court of the other Tribe for an in camera review only, or allow such Judge to review the record in the District Court, in camera, for the purpose of said Judge certifying to his Tribe that the child is eligible for membership in that Tribe.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 124. CERTIFICATES OF ADOPTION

(a) For each adoption or annulment of adoption, the Court shall prepare, within thirty days after the decree becomes final, a certificate of such decree on a form furnished by the registrar of vital statistics of the State or other jurisdiction having issued the birth certificate of said child, and shall attach thereto certified copies of the petition and decree of adoption, and any other information required by law by the registrar.

(b) Such form and certified copies, along with any other pertinent information requested by the jurisdiction having issued the birth certificate shall be forwarded forthwith to the registrar of vital statistics of the appropriate jurisdiction.

(c) One certified copy of the form certificate, petition, and decree of adoption may be forwarded to the Secretary of the Interior. The material forwarded to the Secretary shall also contain a Judge's certificate showing:

- (1) The original and adoptive name and tribal affiliation of the child,
- (2) The names, addresses, tribal affiliation and degree of blood when known of the biological parents,
- (3) The names and addresses of the adoptive parents,
- (4) The identity of agencies having filed information relating to the adoptive placement,
- (5) Any affidavit of the biological parent requesting that their identity remain confidential.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 125. FOREIGN DECREE

When the relationship of parent and child has been created by a decree of adoption by any Court of competent jurisdiction of any other nation, or its political subdivisions having authority to enter such decrees, the rights and obligations of the parties as to matters within the jurisdiction of this Nation shall be determined by section 122 of this Chapter.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 126. ADOPTION OF ADULTS

(a) An adult person may be adopted by any other adult person with the consent of the person to be adopted, or his guardian, if the Court shall approve, and with the consent of the spouse of the adopting parent, if any, filed in writing with the Court. The consent of the adopted adult's parents shall not be necessary unless said adult has been adjudicated incompetent, nor shall an investigation be made. Such adoption shall follow the procedure otherwise set forth herein. Such adoption shall create the relationship of parent and child between the parties, but shall not destroy the parent-child relationship with the biological parents, unless specifically requested by the adopted adult in writing in open Court. Unless so requested, the legal effect of such decree, for all purposes, including inheritance, but not including tribal enrollment eligibility, shall be that the adopted person is the child of both sets of parents equally.

(b) Proceedings and records relating to the adoption of an adult shall be open to the public as are the records of other civil cases.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]

SECTION 127. APPEALS

An appeal to the Supreme Court may be taken from any final order, judgment, or decree rendered hereunder by any person aggrieved thereby in the manner provided for civil appeals.

[HISTORY: Ordinance No. 2012-08, July 28, 2012]